
ENGROSSED HOUSE BILL 1940

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By Representatives Robertson, Appelwick, Sheahan, Regala, Scott, O'Brien, Ogden, Cooper, Blalock, Costa, Cole, Conway, Cody, Wolfe and Cooke

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1 AN ACT Relating to driving while under the influence of liquor or
2 drugs; amending RCW 10.05.090, 10.05.140, 46.20.3101, 46.20.380,
3 46.20.391, 46.20.394, 46.20.400, 46.20.720, 46.20.730, 46.20.740,
4 46.61.5055, and 46.61.5056; reenacting and amending RCW 46.63.020;
5 adding a new section to chapter 46.04 RCW; recodifying RCW 46.20.730;
6 prescribing penalties; and providing an effective date.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

8 **Sec. 1.** RCW 10.05.090 and 1994 c 275 s 18 are each amended to read
9 as follows:

10 If a petitioner, who has been accepted for a deferred prosecution,
11 fails or neglects to carry out and fulfill any term or condition of the
12 petitioner's treatment plan or any term or condition imposed in
13 connection with the installation of an interlock or other device under
14 RCW 46.20.720, the facility, center, institution, or agency
15 administering the treatment or the entity administering the use of the
16 device, shall immediately report such breach to the court, the
17 prosecutor, and the petitioner or petitioner's attorney of record,
18 together with its recommendation. The court upon receiving such a
19 report shall hold a hearing to determine whether the petitioner should

1 be removed from the deferred prosecution program. At the hearing,
2 evidence shall be taken of the petitioner's alleged failure to comply
3 with the treatment plan or device installation and the petitioner shall
4 have the right to present evidence on his or her own behalf. The court
5 shall either order that the petitioner continue on the treatment plan
6 or be removed from deferred prosecution. If removed from deferred
7 prosecution, the court shall enter judgment pursuant to RCW 10.05.020
8 and, if the charge for which the deferred prosecution was granted was
9 a misdemeanor or gross misdemeanor under Title 46 RCW, shall notify the
10 department of licensing of the removal and entry of judgment.

11 **Sec. 2.** RCW 10.05.140 and 1991 c 247 s 1 are each amended to read
12 as follows:

13 As a condition of granting a deferred prosecution petition, the
14 court shall order that the petitioner shall not operate a motor vehicle
15 upon the public highways without a valid operator's license and proof
16 of liability insurance. The amount of liability insurance shall be
17 established by the court at not less than that established by RCW
18 46.29.490. As a condition of granting a deferred prosecution petition,
19 the court may also order the installation of an interlock or other
20 device under RCW 46.20.720. As a condition of granting a deferred
21 prosecution petition, the court may order the petitioner to make
22 restitution and to pay costs as defined in RCW 10.01.160. The court
23 may terminate the deferred prosecution program upon violation of this
24 section.

25 **Sec. 3.** RCW 46.20.3101 and 1995 c 332 s 3 are each amended to read
26 as follows:

27 Pursuant to RCW 46.20.308, the department shall suspend, revoke, or
28 deny the arrested person's license, permit, or privilege to drive as
29 follows:

30 (1) In the case of a person who has refused a test or tests:

31 (a) For a first refusal within five years, where there has not been
32 a previous incident within five years that resulted in administrative
33 action under this section, revocation or denial for (~~one year~~) five
34 hundred forty days;

35 (b) For a second (~~or subsequent~~) refusal within five years, or
36 for a first refusal where there has been one or more previous incidents
37 within five years that have resulted in administrative action under

1 this section, revocation or denial for (~~two~~) three years or until the
2 person reaches age twenty-one, whichever is longer. A revocation
3 imposed under this subsection (1)(b) shall run consecutively to the
4 period of any suspension, revocation, or denial imposed pursuant to a
5 criminal conviction arising out of the same incident;

6 (c) For a third or subsequent refusal within five years, or for a
7 second refusal where there has been two or more previous incidents
8 within five years that have resulted in administrative action under
9 this section, revocation or denial for four years or until the person
10 reaches age twenty-one, whichever is longer. A revocation imposed
11 under this subsection (1)(c) runs consecutively to the period of any
12 suspension, revocation, or denial imposed under a criminal conviction
13 arising out of the same incident.

14 (2) In the case of an incident where a person has submitted to or
15 been administered a test or tests indicating that the alcohol
16 concentration of the person's breath or blood was 0.10 or more:

17 (a) For a first incident within five years, where there has not
18 been a previous incident within five years that resulted in
19 administrative action under this section, placement in probationary
20 status as provided in RCW 46.20.355;

21 (b) For a second or subsequent incident within five years,
22 revocation or denial for two years.

23 (3) In the case of an incident where a person under age twenty-one
24 has submitted to or been administered a test or tests indicating that
25 the alcohol concentration of the person's breath or blood was 0.02 or
26 more:

27 (a) For a first incident within five years, suspension or denial
28 for ninety days;

29 (b) For a second or subsequent incident within five years,
30 revocation or denial for one year or until the person reaches age
31 twenty-one, whichever is longer.

32 (4) Ninety days after revocation or denial under subsection (1)(a)
33 or (2)(b) of this section, or one year after revocation or denial under
34 subsection (1)(b) or (c) of this section, the person whose license or
35 privilege has been revoked or denied may apply to the department for
36 issuance of a temporary restricted license under RCW 46.20.391 with the
37 requirement that the person have an ignition interlock or other
38 biological or technical device installed on his or her vehicle and
39 operate no other motor vehicle for the remainder of the term of

1 revocation or denial. A temporary restricted license granted as the
2 result of an application under this section extends through the period
3 of any suspension, revocation, or denial imposed under a criminal
4 conviction arising out of the same incident.

5 **Sec. 4.** RCW 46.20.380 and 1985 ex.s. c 1 s 6 are each amended to
6 read as follows:

7 No person may file an application for ~~((an occupational))~~ a
8 temporary restricted driver's license as provided in RCW 46.20.391
9 unless he or she first pays to the director or other person authorized
10 to accept applications and fees for driver's licenses a fee of twenty-
11 five dollars. The applicant shall receive upon payment an official
12 receipt for the payment of such fee. All such fees shall be forwarded
13 to the director who shall transmit such fees to the state treasurer in
14 the same manner as other driver's license fees.

15 **Sec. 5.** RCW 46.20.391 and 1995 c 332 s 12 are each amended to read
16 as follows:

17 (1) Any person licensed under this chapter who is convicted of an
18 offense relating to motor vehicles for which suspension or revocation
19 of the driver's license is mandatory, other than vehicular homicide or
20 vehicular assault, or any person authorized to apply under RCW
21 46.20.3101, may submit to the department an application for ~~((an~~
22 ~~occupational))~~ a temporary restricted driver's license. The
23 department, upon receipt of the prescribed fee and upon determining
24 that the petitioner is ~~((engaged in an occupation or trade that makes~~
25 ~~it essential that the petitioner operate a motor vehicle))~~ eligible to
26 receive the license under subsection (3) of this section, may issue
27 ~~((an occupational))~~ a temporary restricted driver's license and may set
28 definite restrictions as provided in RCW 46.20.394. No person may
29 petition for, and the department shall not issue, ~~((an occupational))~~
30 a temporary restricted driver's license that is effective during the
31 first:

32 (a) Thirty days of any suspension ((or revocation)) imposed ((for
33 a violation of RCW 46.61.502 or 46.61.504)) under RCW 46.61.5055(1)(a);

34 (b) Thirty days of a revocation imposed under RCW 46.61.5055(1)(b);

35 (c) Ninety days of a revocation imposed under RCW 46.20.3101(1)(a)
36 or (2)(b);

1 (d) One year of a revocation imposed under RCW 46.61.5055 (2) or
2 (3) or 46.20.3101(1) (b) or (c).

3 A petitioner under (b), (c), or (d) of this subsection must also
4 agree to have an ignition interlock or other biological or technical
5 device installed on his or her vehicle and operate no other motor
6 vehicle during the term of revocation. A temporary restricted license
7 issued after a suspension or revocation under RCW 46.61.5055 or
8 46.20.3101 extends through the entire period of any concurrent or
9 consecutive suspensions or revocations that may be imposed as the
10 result of both administrative action and criminal conviction arising
11 out of the same incident.

12 (2) A person aggrieved by the decision of the department on the
13 application for ((an occupational)) a temporary restricted driver's
14 license may request a hearing as provided by rule of the department.

15 ((+2)) (3) An applicant for ((an occupational)) a temporary
16 restricted driver's license is eligible to receive such license only
17 if:

18 (a) Within one year immediately preceding the date of the offense
19 that gave rise to the present conviction, the applicant has not
20 committed any offense relating to motor vehicles for which suspension
21 or revocation of a driver's license is mandatory; and

22 (b) Within five years immediately preceding the date of the offense
23 that gave rise to the present conviction, the applicant has not
24 committed ((any of the following offenses: (i) Driving or being in
25 actual physical control of a motor vehicle while under the influence of
26 intoxicating liquor; (ii)) vehicular homicide under RCW 46.61.520((+))
27 or ((+iii)) vehicular assault under RCW 46.61.522; and

28 (c) The applicant meets at least one of the following qualifying
29 circumstances: (i) Is engaged in an occupation or trade that makes it
30 essential that he or she operate a motor vehicle; (ii) is undergoing
31 continuing health care or providing continuing health care to another
32 who is dependent upon the applicant; (iii) is enrolled in an
33 educational institution and pursuing a course of study leading to a
34 diploma, degree, or other certification of successful educational
35 completion; (iv) is undergoing substance abuse treatment; or (v) is
36 fulfilling court-ordered community service responsibilities; and

37 (d) The applicant files satisfactory proof of financial
38 responsibility pursuant to chapter 46.29 RCW.

1 (~~(3)~~) (4) The director shall cancel (~~(an occupational)~~) a
2 temporary restricted driver's license upon receipt of notice that the
3 holder thereof has been convicted of operating a motor vehicle in
4 violation of its restrictions, or of an offense that pursuant to
5 chapter 46.20 RCW would warrant suspension or revocation of a regular
6 driver's license. The cancellation is effective as of the date of the
7 conviction, and continues with the same force and effect as any
8 suspension or revocation under this title.

9 **Sec. 6.** RCW 46.20.394 and 1983 c 165 s 26 are each amended to read
10 as follows:

11 In issuing (~~(an occupational)~~) a temporary restricted driver's
12 license under RCW 46.20.391, the department shall describe the (~~(type~~
13 ~~of occupation permitted)~~) qualifying circumstances and shall set forth
14 in detail the specific hours of the day during which the person may
15 drive to and from his (~~(place of work)~~) or her home, which may not
16 exceed twelve hours in any one day; the days of the week during which
17 the license may be used; and the general routes over which the person
18 may travel. These restrictions shall be prepared in written form by
19 the department, which document shall be carried in the vehicle at all
20 times and presented to a law enforcement officer under the same terms
21 as the (~~(occupational)~~) temporary restricted driver's license. Any
22 violation of the restrictions constitutes a violation of RCW 46.20.342
23 and subjects the person to all procedures and penalties therefor.

24 **Sec. 7.** RCW 46.20.400 and 1967 c 32 s 33 are each amended to read
25 as follows:

26 If (~~(an occupational)~~) a temporary restricted driver's license is
27 issued and is not revoked during the period for which issued the
28 licensee may obtain a new driver's license at the end of such period,
29 but no new driver's (~~(permit shall)~~) license may be issued to such
30 person until he or she surrenders his (~~(occupational)~~) or her temporary
31 restricted driver's license and his or her copy of the order and the
32 director is satisfied that he or she complies with all other provisions
33 of law relative to the issuance of a driver's license.

34 **Sec. 8.** RCW 46.20.720 and 1994 c 275 s 22 are each amended to read
35 as follows:

1 The court may order that after a period of suspension, revocation,
2 or denial of driving privileges, and for up to as long as the court has
3 jurisdiction, any person convicted of any offense involving the use,
4 consumption, or possession of alcohol while operating a motor vehicle
5 ~~((to))~~ may drive only a motor vehicle equipped with a functioning
6 ignition interlock or other biological or technical device~~((, and the~~
7 ~~restriction shall be for a period of not less than six months))~~.

8 The court shall establish a specific calibration setting at which
9 the ignition interlock or other biological or technical device will
10 prevent the motor vehicle from being started and the period of time
11 that the person shall be subject to the restriction.

12 For purposes of this section, "convicted" means being found guilty
13 of an offense or being placed on a deferred prosecution program under
14 chapter 10.05 RCW.

15 **Sec. 9.** RCW 46.20.730 and 1994 c 275 s 23 are each amended to read
16 as follows:

17 ~~((For the purposes of RCW 46.20.720, 46.20.740, and 46.20.750,))~~
18 "Ignition interlock device" means breath alcohol ~~((analyzed))~~ analyzing
19 ignition equipment, certified by the state ~~((commission on equipment))~~
20 patrol, designed to prevent a motor vehicle from being operated by a
21 person who has consumed an alcoholic beverage, and "other biological or
22 technical device" means any device meeting the standards of the
23 National Highway Traffic Safety Administration or the state
24 ~~((commission on equipment))~~ patrol, designed to prevent the operation
25 of a motor vehicle by a person who is impaired by alcohol or drugs.
26 The ~~((commission))~~ state patrol shall by rule provide standards for the
27 certification, installation, repair, and removal of the devices.

28 **Sec. 10.** RCW 46.20.740 and 1994 c 275 s 24 are each amended to
29 read as follows:

30 (1) The department shall attach or imprint a notation on the
31 driver's license of any person restricted under RCW 46.20.720 stating
32 that the person may operate only a motor vehicle equipped with an
33 ignition interlock or other biological or technical device.

34 (2) It is a misdemeanor for a person with such a notation on his or
35 her driver's license to operate a motor vehicle that is not so
36 equipped.

1 **Sec. 11.** RCW 46.61.5055 and 1996 c 307 s 3 are each amended to
2 read as follows:

3 (1) A person who is convicted of a violation of RCW 46.61.502 or
4 46.61.504 and who has no prior offense within five years shall be
5 punished as follows:

6 (a) In the case of a person whose alcohol concentration was less
7 than 0.15, or for whom for reasons other than the person's refusal to
8 take a test offered pursuant to RCW 46.20.308 there is no test result
9 indicating the person's alcohol concentration:

10 (i) By imprisonment for not less than one day nor more than one
11 year. Twenty-four consecutive hours of the imprisonment may not be
12 suspended or deferred unless the court finds that the imposition of
13 this mandatory minimum sentence would impose a substantial risk to the
14 offender's physical or mental well-being. Whenever the mandatory
15 minimum sentence is suspended or deferred, the court shall state in
16 writing the reason for granting the suspension or deferral and the
17 facts upon which the suspension or deferral is based; and

18 (ii) By a fine of not less than three hundred fifty dollars nor
19 more than five thousand dollars. Three hundred fifty dollars of the
20 fine may not be suspended or deferred unless the court finds the
21 offender to be indigent; and

22 (iii) By suspension of the offender's license or permit to drive,
23 or suspension of any nonresident privilege to drive, for a period of
24 ninety days. The period of license, permit, or privilege suspension
25 may not be suspended. The court shall notify the department of
26 licensing of the conviction, and upon receiving notification of the
27 conviction the department shall suspend the offender's license, permit,
28 or privilege; or

29 (b) In the case of a person whose alcohol concentration was at
30 least 0.15, or for whom by reason of the person's refusal to take a
31 test offered pursuant to RCW 46.20.308 there is no test result
32 indicating the person's alcohol concentration:

33 (i) By imprisonment for not less than two days nor more than one
34 year. Two consecutive days of the imprisonment may not be suspended or
35 deferred unless the court finds that the imposition of this mandatory
36 minimum sentence would impose a substantial risk to the offender's
37 physical or mental well-being. Whenever the mandatory minimum sentence
38 is suspended or deferred, the court shall state in writing the reason

1 for granting the suspension or deferral and the facts upon which the
2 suspension or deferral is based; and

3 (ii) By a fine of not less than five hundred dollars nor more than
4 five thousand dollars. Five hundred dollars of the fine may not be
5 suspended or deferred unless the court finds the offender to be
6 indigent; and

7 (iii) By ~~((suspension))~~ revocation of the offender's license or
8 permit to drive, or suspension of any nonresident privilege to drive,
9 for a period of one ~~((hundred twenty days))~~ year. The period of
10 license, permit, or privilege suspension may not be suspended. The
11 court shall notify the department of licensing of the conviction, and
12 upon receiving notification of the conviction the department shall
13 suspend the offender's license, permit, or privilege.

14 (2) A person who is convicted of a violation of RCW 46.61.502 or
15 46.61.504 and who has one prior offense within five years shall be
16 punished as follows:

17 (a) In the case of a person whose alcohol concentration was less
18 than 0.15, or for whom for reasons other than the person's refusal to
19 take a test offered pursuant to RCW 46.20.308 there is no test result
20 indicating the person's alcohol concentration:

21 (i) By imprisonment for not less than thirty days nor more than one
22 year. Thirty days of the imprisonment may not be suspended or deferred
23 unless the court finds that the imposition of this mandatory minimum
24 sentence would impose a substantial risk to the offender's physical or
25 mental well-being. Whenever the mandatory minimum sentence is
26 suspended or deferred, the court shall state in writing the reason for
27 granting the suspension or deferral and the facts upon which the
28 suspension or deferral is based; and

29 (ii) By a fine of not less than five hundred dollars nor more than
30 five thousand dollars. Five hundred dollars of the fine may not be
31 suspended or deferred unless the court finds the offender to be
32 indigent; and

33 (iii) By revocation of the offender's license or permit to drive,
34 or suspension of any nonresident privilege to drive, for a period of
35 ~~((one))~~ two years. The period of license, permit, or privilege
36 revocation may not be suspended. The court shall notify the department
37 of licensing of the conviction, and upon receiving notification of the
38 conviction the department shall revoke the offender's license, permit,
39 or privilege; or

1 (b) In the case of a person whose alcohol concentration was at
2 least 0.15, or for whom by reason of the person's refusal to take a
3 test offered pursuant to RCW 46.20.308 there is no test result
4 indicating the person's alcohol concentration:

5 (i) By imprisonment for not less than forty-five days nor more than
6 one year. Forty-five days of the imprisonment may not be suspended or
7 deferred unless the court finds that the imposition of this mandatory
8 minimum sentence would impose a substantial risk to the offender's
9 physical or mental well-being. Whenever the mandatory minimum sentence
10 is suspended or deferred, the court shall state in writing the reason
11 for granting the suspension or deferral and the facts upon which the
12 suspension or deferral is based; and

13 (ii) By a fine of not less than seven hundred fifty dollars nor
14 more than five thousand dollars. Seven hundred fifty dollars of the
15 fine may not be suspended or deferred unless the court finds the
16 offender to be indigent; and

17 (iii) By revocation of the offender's license or permit to drive,
18 or suspension of any nonresident privilege to drive, for a period of
19 (~~four hundred fifty~~) nine hundred days. The period of license,
20 permit, or privilege revocation may not be suspended. The court shall
21 notify the department of licensing of the conviction, and upon
22 receiving notification of the conviction the department shall revoke
23 the offender's license, permit, or privilege.

24 (3) A person who is convicted of a violation of RCW 46.61.502 or
25 46.61.504 and who has two or more prior offenses within five years
26 shall be punished as follows:

27 (a) In the case of a person whose alcohol concentration was less
28 than 0.15, or for whom for reasons other than the person's refusal to
29 take a test offered pursuant to RCW 46.20.308 there is no test result
30 indicating the person's alcohol concentration:

31 (i) By imprisonment for not less than ninety days nor more than one
32 year. Ninety days of the imprisonment may not be suspended or deferred
33 unless the court finds that the imposition of this mandatory minimum
34 sentence would impose a substantial risk to the offender's physical or
35 mental well-being. Whenever the mandatory minimum sentence is
36 suspended or deferred, the court shall state in writing the reason for
37 granting the suspension or deferral and the facts upon which the
38 suspension or deferral is based; and

1 (ii) By a fine of not less than one thousand dollars nor more than
2 five thousand dollars. One thousand dollars of the fine may not be
3 suspended or deferred unless the court finds the offender to be
4 indigent; and

5 (iii) By revocation of the offender's license or permit to drive,
6 or suspension of any nonresident privilege to drive, for a period of
7 (~~two~~) three years. The period of license, permit, or privilege
8 revocation may not be suspended. The court shall notify the department
9 of licensing of the conviction, and upon receiving notification of the
10 conviction the department shall revoke the offender's license, permit,
11 or privilege; or

12 (b) In the case of a person whose alcohol concentration was at
13 least 0.15, or for whom by reason of the person's refusal to take a
14 test offered pursuant to RCW 46.20.308 there is no test result
15 indicating the person's alcohol concentration:

16 (i) By imprisonment for not less than one hundred twenty days nor
17 more than one year. One hundred twenty days of the imprisonment may
18 not be suspended or deferred unless the court finds that the imposition
19 of this mandatory minimum sentence would impose a substantial risk to
20 the offender's physical or mental well-being. Whenever the mandatory
21 minimum sentence is suspended or deferred, the court shall state in
22 writing the reason for granting the suspension or deferral and the
23 facts upon which the suspension or deferral is based; and

24 (ii) By a fine of not less than one thousand five hundred dollars
25 nor more than five thousand dollars. One thousand five hundred dollars
26 of the fine may not be suspended or deferred unless the court finds the
27 offender to be indigent; and

28 (iii) By revocation of the offender's license or permit to drive,
29 or suspension of any nonresident privilege to drive, for a period of
30 (~~three~~) four years. The period of license, permit, or privilege
31 revocation may not be suspended. The court shall notify the department
32 of licensing of the conviction, and upon receiving notification of the
33 conviction the department shall revoke the offender's license, permit,
34 or privilege.

35 (4) In exercising its discretion in setting penalties within the
36 limits allowed by this section, the court shall particularly consider
37 whether the person's driving at the time of the offense was responsible
38 for injury or damage to another or another's property.

1 (5) An offender punishable under this section is subject to the
2 alcohol assessment and treatment provisions of RCW 46.61.5056.

3 (6) After expiration of any period of suspension or revocation of
4 the offender's license, permit, or privilege to drive required by this
5 section, the department shall place the offender's driving privilege in
6 probationary status pursuant to RCW 46.20.355.

7 (7)(a) In addition to any nonsuspendable and nondeferrable jail
8 sentence required by this section, whenever the court imposes less than
9 one year in jail, the court shall also suspend but shall not defer a
10 period of confinement for a period not exceeding two years. The court
11 shall impose conditions of probation that include: (i) Not driving a
12 motor vehicle within this state without a valid license to drive and
13 proof of financial responsibility for the future; (ii) not driving a
14 motor vehicle within this state while having an alcohol concentration
15 of 0.08 or more within two hours after driving; and (iii) not refusing
16 to submit to a test of his or her breath or blood to determine alcohol
17 concentration upon request of a law enforcement officer who has
18 reasonable grounds to believe the person was driving or was in actual
19 physical control of a motor vehicle within this state while under the
20 influence of intoxicating liquor. The court may impose conditions of
21 probation that include nonrepetition, installation of an ignition
22 interlock or other biological or technical device on the probationer's
23 motor vehicle, alcohol or drug treatment, supervised probation, or
24 other conditions that may be appropriate. The sentence may be imposed
25 in whole or in part upon violation of a condition of probation during
26 the suspension period.

27 (b) For each violation of mandatory conditions of probation under
28 (a)(i) and (ii) or (a)(i) and (iii) of this subsection, the court shall
29 order the convicted person to be confined for thirty days, which shall
30 not be suspended or deferred.

31 (c) For each incident involving a violation of a mandatory
32 condition of probation imposed under this subsection, the license,
33 permit, or privilege to drive of the person shall be suspended by the
34 court for thirty days or, if such license, permit, or privilege to
35 drive already is suspended, revoked, or denied at the time the finding
36 of probation violation is made, the suspension, revocation, or denial
37 then in effect shall be extended by thirty days. The court shall
38 notify the department of any suspension, revocation, or denial or any

1 extension of a suspension, revocation, or denial imposed under this
2 subsection.

3 (8)(a) A "prior offense" means any of the following:

4 (i) A conviction for a violation of RCW 46.61.502 or an equivalent
5 local ordinance;

6 (ii) A conviction for a violation of RCW 46.61.504 or an equivalent
7 local ordinance;

8 (iii) A conviction for a violation of RCW 46.61.520 committed while
9 under the influence of intoxicating liquor or any drug;

10 (iv) A conviction for a violation of RCW 46.61.522 committed while
11 under the influence of intoxicating liquor or any drug;

12 (v) A conviction for a violation of RCW 46.61.525(1) or an
13 equivalent local ordinance, if the conviction is the result of a charge
14 that was originally filed as a violation of RCW 46.61.502 or 46.61.504,
15 or an equivalent local ordinance, or of RCW 46.61.520 or 46.61.522;

16 (vi) An out-of-state conviction for a violation that would have
17 been a violation of (a)(i), (ii), (iii), (iv), or (v) of this
18 subsection if committed in this state;

19 (vii) A deferred prosecution under chapter 10.05 RCW granted in a
20 prosecution for a violation of RCW 46.61.502, 46.61.504, or an
21 equivalent local ordinance; or

22 (viii) A deferred prosecution under chapter 10.05 RCW granted in a
23 prosecution for a violation of RCW 46.61.525(1), or an equivalent local
24 ordinance, if the charge under which the deferred prosecution was
25 granted was originally filed as a violation of RCW 46.61.502 or
26 (~~46.61.502~~) 46.61.504, or an equivalent local ordinance, or of RCW
27 46.61.520 or 46.61.522.

28 (b) "Within five years" means that the arrest for a prior offense
29 occurred within five years of the arrest for the current offense.

30 **Sec. 12.** RCW 46.61.5056 and 1995 c 332 s 14 are each amended to
31 read as follows:

32 (1) A person subject to alcohol assessment and treatment under RCW
33 46.61.5055 shall be required by the court to complete a course in an
34 alcohol information school approved by the department of social and
35 health services or to complete more intensive treatment in a program
36 approved by the department of social and health services, as determined
37 by the court. The court shall notify the department of licensing

1 whenever it orders a person to complete a course or treatment program
2 under this section.

3 (2) A diagnostic evaluation and treatment recommendation shall be
4 prepared under the direction of the court by an alcoholism agency
5 approved by the department of social and health services or a qualified
6 probation department approved by the department of social and health
7 services. The agency shall consider and make a recommendation
8 concerning installation of an ignition interlock or other biological or
9 technical device on the offender's motor vehicle. A copy of the report
10 shall be forwarded to the department of licensing. Based on the
11 diagnostic evaluation, the court shall determine (a) whether the person
12 shall be required to complete a course in an alcohol information school
13 approved by the department of social and health services or more
14 intensive treatment in a program approved by the department of social
15 and health services and (b) whether the person must have an ignition
16 interlock or other biological or technical device installed on his or
17 her vehicle.

18 (3) Standards for approval for alcohol treatment programs shall be
19 prescribed by the department of social and health services. The
20 department of social and health services shall periodically review the
21 costs of alcohol information schools and treatment programs.

22 (4) Any agency that provides treatment ordered under RCW
23 46.61.5055, shall immediately report to the appropriate probation
24 department where applicable, otherwise to the court, and to the
25 department of licensing any noncompliance by a person with the
26 conditions of his or her ordered treatment. The court shall notify the
27 department of licensing and the department of social and health
28 services of any failure by an agency to so report noncompliance. Any
29 agency with knowledge of noncompliance that fails to so report shall be
30 fined two hundred fifty dollars by the department of social and health
31 services. Upon three such failures by an agency within one year, the
32 department of social and health services shall revoke the agency's
33 approval under this section.

34 (5) The department of licensing and the department of social and
35 health services may adopt such rules as are necessary to carry out this
36 section.

1 **Sec. 13.** RCW 46.63.020 and 1996 c 307 s 6, 1996 c 287 s 7, 1996 c
2 93 s 3, 1996 c 87 s 21, and 1996 c 31 s 3 are each reenacted and
3 amended to read as follows:

4 Failure to perform any act required or the performance of any act
5 prohibited by this title or an equivalent administrative regulation or
6 local law, ordinance, regulation, or resolution relating to traffic
7 including parking, standing, stopping, and pedestrian offenses, is
8 designated as a traffic infraction and may not be classified as a
9 criminal offense, except for an offense contained in the following
10 provisions of this title or a violation of an equivalent administrative
11 regulation or local law, ordinance, regulation, or resolution:

12 (1) RCW 46.09.120(2) relating to the operation of a nonhighway
13 vehicle while under the influence of intoxicating liquor or a
14 controlled substance;

15 (2) RCW 46.09.130 relating to operation of nonhighway vehicles;

16 (3) RCW 46.10.090(2) relating to the operation of a snowmobile
17 while under the influence of intoxicating liquor or narcotics or
18 habit-forming drugs or in a manner endangering the person of another;

19 (4) RCW 46.10.130 relating to the operation of snowmobiles;

20 (5) Chapter 46.12 RCW relating to certificates of ownership and
21 registration and markings indicating that a vehicle has been destroyed
22 or declared a total loss;

23 (6) RCW 46.16.010 relating to initial registration of motor
24 vehicles;

25 (7) RCW 46.16.011 relating to permitting unauthorized persons to
26 drive;

27 (8) RCW 46.16.160 relating to vehicle trip permits;

28 (9) RCW 46.16.381 (6) or (9) relating to unauthorized use or
29 acquisition of a special placard or license plate for disabled persons'
30 parking;

31 (10) RCW 46.20.021 relating to driving without a valid driver's
32 license, unless the person cited for the violation provided the citing
33 officer with an expired driver's license or other valid identifying
34 documentation under RCW 46.20.035 at the time of the stop and was not
35 in violation of RCW 46.20.342(1) or 46.20.420, in which case the
36 violation is an infraction;

37 (11) RCW 46.20.091 relating to false statements regarding a
38 driver's license or instruction permit;

1 (12) RCW 46.20.336 relating to the unlawful possession and use of
2 a driver's license;

3 (13) RCW 46.20.342 relating to driving with a suspended or revoked
4 license or status;

5 (14) RCW 46.20.410 relating to the violation of restrictions of an
6 occupational driver's license;

7 (15) RCW 46.20.420 relating to the operation of a motor vehicle
8 with a suspended or revoked license;

9 (16) RCW 46.20.740 relating to operation of a motor vehicle without
10 an ignition interlock device in violation of a license notation that
11 the device is required;

12 (17) RCW 46.20.750 relating to assisting another person to start a
13 vehicle equipped with an ignition interlock device;

14 (~~(17)~~) (18) RCW 46.25.170 relating to commercial driver's
15 licenses;

16 (~~(18)~~) (19) Chapter 46.29 RCW relating to financial
17 responsibility;

18 (~~(19)~~) (20) RCW 46.30.040 relating to providing false evidence of
19 financial responsibility;

20 (~~(20)~~) (21) RCW 46.37.435 relating to wrongful installation of
21 sunscreening material;

22 (~~(21)~~) (22) RCW 46.44.180 relating to operation of mobile home
23 pilot vehicles;

24 (~~(22)~~) (23) RCW 46.48.175 relating to the transportation of
25 dangerous articles;

26 (~~(23)~~) (24) RCW 46.52.010 relating to duty on striking an
27 unattended car or other property;

28 (~~(24)~~) (25) RCW 46.52.020 relating to duty in case of injury to
29 or death of a person or damage to an attended vehicle;

30 (~~(25)~~) (26) RCW 46.52.090 relating to reports by repairmen,
31 storagemen, and appraisers;

32 (~~(26)~~) (27) RCW 46.52.100 relating to driving under the influence
33 of liquor or drugs;

34 (~~(27)~~) (28) RCW 46.52.130 relating to confidentiality of the
35 driving record to be furnished to an insurance company, an employer,
36 and an alcohol/drug assessment or treatment agency;

37 (~~(28)~~) (29) RCW 46.55.020 relating to engaging in the activities
38 of a registered tow truck operator without a registration certificate;

1 (~~(30)~~) (30) RCW 46.55.035 relating to prohibited practices by tow
2 truck operators;
3 (~~(31)~~) (31) RCW 46.61.015 relating to obedience to police
4 officers, flagmen, or fire fighters;
5 (~~(32)~~) (32) RCW 46.61.020 relating to refusal to give information
6 to or cooperate with an officer;
7 (~~(33)~~) (33) (RCW 46.61.022 relating to failure to stop and give
8 identification to an officer;
9 (~~(34)~~) (34) RCW 46.61.024 relating to attempting to elude
10 pursuing police vehicles;
11 (~~(35)~~) (35) RCW 46.61.500 relating to reckless driving;
12 (~~(36)~~) (36) RCW 46.61.502 and 46.61.504 relating to persons under
13 the influence of intoxicating liquor or drugs;
14 (~~(37)~~) (37) RCW 46.61.503 relating to a person under age twenty-
15 one driving a motor vehicle after consuming alcohol;
16 (~~(38)~~) (38) RCW 46.61.520 relating to vehicular homicide by motor
17 vehicle;
18 (~~(39)~~) (39) RCW 46.61.522 relating to vehicular assault;
19 (~~(40)~~) (40) RCW 46.61.525(1) relating to first degree negligent
20 driving;
21 (~~(41)~~) (41) RCW 46.61.527(4) relating to reckless endangerment of
22 roadway workers;
23 (~~(42)~~) (42) RCW 46.61.530 relating to racing of vehicles on
24 highways;
25 (~~(43)~~) (43) RCW 46.61.685 relating to leaving children in an
26 unattended vehicle with the motor running;
27 (~~(44)~~) (44) RCW 46.64.010 relating to unlawful cancellation of or
28 attempt to cancel a traffic citation;
29 (~~(45)~~) (45) RCW 46.64.048 relating to attempting, aiding,
30 abetting, coercing, and committing crimes;
31 (~~(46)~~) (46) Chapter 46.65 RCW relating to habitual traffic
32 offenders;
33 (~~(47)~~) (47) RCW 46.68.010 relating to false statements made to
34 obtain a refund;
35 (~~(48)~~) (48) Chapter 46.70 RCW relating to unfair motor vehicle
36 business practices, except where that chapter provides for the
37 assessment of monetary penalties of a civil nature;
38 (~~(49)~~) (49) Chapter 46.72 RCW relating to the transportation of
39 passengers in for hire vehicles;

1 (~~(49)~~) (50) RCW 46.72A.060 relating to limousine carrier
2 insurance;

3 (~~(50)~~) (51) RCW 46.72A.070 relating to operation of a limousine
4 without a vehicle certificate;

5 (~~(51)~~) (52) RCW 46.72A.080 relating to false advertising by a
6 limousine carrier;

7 (~~(52)~~) (53) Chapter 46.80 RCW relating to motor vehicle wreckers;

8 (~~(53)~~) (54) Chapter 46.82 RCW relating to driver's training
9 schools;

10 (~~(54)~~) (55) RCW 46.87.260 relating to alteration or forgery of a
11 cab card, letter of authority, or other temporary authority issued
12 under chapter 46.87 RCW;

13 (~~(55)~~) (56) RCW 46.87.290 relating to operation of an
14 unregistered or unlicensed vehicle under chapter 46.87 RCW.

15 NEW SECTION. **Sec. 14.** RCW 46.20.730, as amended by this act, is
16 recodified as a section in chapter 46.04 RCW.

17 NEW SECTION. **Sec. 15.** This act takes effect January 1, 1998.

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